

**CITY OF WEST DES MOINES
BOARD OF ADJUSTMENT COMMUNICATION**

Meeting Date: June 12, 2013

Item: Variance Request – Medical Arts, LLC – Steve Lombardi – 1300 37th Street – Request for a 60 ft variance of the required 500 ft frontage for an interstate sign (VAR-2013-003/VAR-001451-2013) (Continued from May 29, 2013)

Requested Action: Approval of a Variance Request

Case Advisor: Kevin Wilde, Sign and Zoning Administrator *KW*

Applicant's Request: The applicant, Steve Lombardi, on behalf of Medical Arts LLC, is requesting a 60 ft variance of the required 500 feet of interstate frontage required for an interstate sign for the property at 1300 37th Street. Due to a sewer and associated easement running across the property, variances for the setbacks are also needed to avoid conflicts with the sewer and the sign location.

History: The property is located west of the West Towers building along Valley West Drive and north of the Colony Park Building along Woodland Avenue to the north of Valley High School. The Polk County Assessor shows that the building was built in 1974 and that the property was platted in 1984. The property, even though it is addressed as 1300 37th Street, has no public street frontage. The lot has 440 feet of frontage on the interstate but the only access to the property is via private drives through the parking lots of West Towers and Colony Park. The Medical Arts Building is a two story building that is partially underground. Coupled with the fact that the building is surrounded by multi-story buildings (e.g., West Towers – 9 stories, Colony Park – 6 stories, and the three story apartments of Boulder Ridge to the west); the Medical Arts Building has very limited visibility.

City Council Subcommittee: This item was not presented to the Development and Planning City Council Subcommittee.

Previous Board Action: This item had been noticed and scheduled for the public hearing at the May 29, 2013 Board of Adjustment meeting, however there were only three members on the Board in attendance. Board member Stewart declared a potential conflict of interest due to her employment with the major tenant in the building. The Rules of Procedure for the Board require three voting members to approve of a variance and further states that if the number of voting members is reduced to below three due to a conflict of interest, then the item will be continued to the next meeting. Therefore, at the May 29, 2013 meeting, the Board opened the public hearing and continued the item to the June 12, 2013 meeting in accordance with the Rules of Procedure.

Staff Review and Comment: This request was distributed to other City departments and other agencies for their review and comment. The property is zoned Professional Commerce Park (PCP) which requires a minimum 500 ft of interstate frontage to be eligible for an interstate sign. The subject property has 440.71 feet of frontage but also has no public street frontage. Currently, the property has building signage and a monument sign located on the drive coming north off of Woodland Avenue that is approximately 320 ft north of Woodland Avenue. Staff is of the opinion that this is a situation that is unique enough that a variance to allow some measure of signage would be warranted.

During the review of the request, Engineering staff commented that there is a sewer and easement that runs along the north side of the property and then cuts across the eastern portion of the site towards the south east. Staff conveyed the information to the applicant and his sign contractor had the sewer marked and located the sign accordingly to avoid the easement. The applicant is proposing to place the sign east of the parking lot on the east side of the building approximately 22 ft from the east property line and eight (8) feet from the northern property line adjacent to the interstate.

Per the City Code, interstate signs are to have a minimum 200 ft sideyard setback and be placed a minimum of 20 ft from the interstate right-of-way. Because of the sewer line and easement, these requirements are problematic to meet. The sign would need to be located in the parking lot or up against the building to meet these requirements and

avoid the easement area. Staff supports the request of the applicant to locate the sign as proposed and would support allowing the sign with a 22 ft sideyard setback and an eight (8) foot setback from the right-of-way of the interstate.

It should also be noted that in one of the concepts the applicant submitted, a digital time and temperature sign is shown. The City Code would allow this but the time and temperature sign cannot exceed one-third (1/3) of the allowed signage, which for an interstate sign would be 100 square feet. Therefore, the maximum size of the time and temperature portion of the sign if that option is considered would be approximately 33 square feet. The sign will need to comply with all other City Code requirements for an interstate sign.

Variance Findings. Title II of the City Codes discusses the variance procedure. All five (5) conditions must be met in order to grant a variance. Based upon a review of the submitted variance request, staff has made the following findings on the proposed project:

1. That the proposed development or use is consistent with the West Des Moines comprehensive plan and any applicable subarea plan. *The use is consistent with the West Des Moines comprehensive plan.*
2. That there are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography or location, which do not apply generally to comparable properties in the same vicinity and zones. *The property is an isolated lot that does not have public street frontage. They are also surrounded by multi-storied buildings that would limit the visibility of any building signage from the public streets in such a manner that the best visibility for the site is from the interstate.*
3. That the strict application of the zoning regulations as they apply to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations provided that such hardships shall not be self-imposed by the applicant or his or her successor in interest. *Staff is of the opinion that a hardship does exist with the property due to the lack of public street frontage that was created when the property was subdivided in the 1980's.*
4. That there have been no changes in the character of the site or its surroundings which detrimentally affect the environment. *The variance would not be detrimental to the environment.*
5. That the granting of such variance does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements. *The variances to the setbacks would be necessary to avoid potential impacts to the existing sewer and associated easement. Staff believes that the applicant and his contractor have tried to make a reasonable accommodation in the placement of the sign to avoid impacts to sewer and that will not be a detriment to nearby properties.*

Staff Recommendations and Conditions of Approval: Based upon the information presented in the Variance Findings, staff recommends the Board of Adjustment approve the applicant's request for a 60 foot variance of the required 500 ft interstate frontage necessary for the placement of an interstate sign on the property and due to the sewer line and easement, staff would also recommend approval of a sideyard variance to allow the sign to be placed 22 feet from the east lot line and eight (8) feet from the interstate right-of-way.

Noticing Information: On May 10, 2013, notice of the May 29, 2013, Board of Adjustment Public Hearing on this project was published in the Des Moines Register Community Section. Notice of this public hearing was also mailed to all surrounding property owners within 370 feet of the subject property on May 9, 2013. Since this item was continued to a date certain at the May 29, 2013 meeting, no further noticing was required.

Property Owner/Applicant:

Steve Lombardi
 Lombardi Properties/Medical Arts LLC
 1300 37th Street, Suite 6
 West Des Moines, IA 50266
 sdlombardi@aol.com
 515-222-1110

Comprehensive Plan: Office
Existing Zoning: Professional Commerce Park (PCP)
Existing Land Use: Office

Surrounding Land Uses:

North **Existing Land Use:** I-235
 Existing Zoning: NA
 Comprehensive Plan Designation: Interstate Highway

South **Existing Land Use:** Office (Colony Park)
 Existing Zoning: Professional Commerce Park (PCP)
 Comprehensive Plan Designation: Office

East **Existing Land Use:** Office (West Towers)
 Existing Zoning: Professional Commerce Park (PCP)
 Comprehensive Plan Designation: Office

West **Existing Land Use:** Apartments (Boulder Ridge)
 Existing Zoning: High Density Residential District (RH-16)
 Comprehensive Plan Designation: Residential High Density

Total Land Area: 3.218 acres

Attachments:

Attachment A	-	Resolution for Approval
Attachment B	-	Location Map
Attachment C	-	Proposed Sign Elevation
Attachment D	-	Two possible concepts of the sign design
Attachment E	-	Site Plan Showing Sewer Line
Attachment F	-	Maplenol Heights Plat
Attachment G	-	Enlargement showing approximate sign location

ATTACHMENT A

Prepared by: K. Wilde, Development Services PO Box 65320 West Des Moines IA 50265-0320 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines PO Box 65320 West Des Moines IA 50265-0320

RESOLUTION

A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES, APPROVING A VARIANCE REQUEST (VAR-2013-003) FOR A SIXTY FOOT (60') VARIANCE FROM THE REQUIRED FIVE HUNDRED FOOT (500') FRONTAGE REQUIRED FOR AN INTERSTATE SIGN AND SETBACK VARIANCE TO ALLOW THE PLACEMENT OF THE SIGN TWENTY TWO FEET (22') FROM THE EAST LOT LINE AND EIGHT FOOT (8') FROM THE INTERSTATE RIGHT-OF-WAY.

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Steve Lombardi on behalf of Medical Arts LLC, has requested approval of a variance from *Title 9, Chapter 18: Signs, Section 9-18-21: Sign Regulation Matrix*, pertaining to interstate signs in a Professional Commerce Park District (PCP), to allow the placement of an interstate sign on the property at 1300 37th Street, and legally described as follows:

Legal Description of Property

**LOT 2, MAPLENOL HEIGHTS,
NOW IN AND FORMING A PART OF THE
CITY OF WEST DES MOINES, POLK COUNTY, IOWA;**

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, on May 29, 2013, at the duly-noticed public hearing to consider the application of a Variance (VAR-2013-003), the number of voting members of the Board of Adjustment was reduced to less than three due to a potential conflict of interest, the Board continued the public hearing until the June 12, 2013 meeting in accordance with the rules of procedure;

WHEREAS, on June 12, 2013, the Board of Adjustment held a duly-noticed public hearing to consider the application for a Variance (VAR-2013-003);

NOW, THEREFORE, THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings, for approval, in the staff report, dated June 12, 2013, or as amended orally at the Board of Adjustment hearing of June 12, 2013, are adopted.

SECTION 2. A sixty foot (60') variance from the required 500 foot interstate frontage to allow the placement of an interstate sign on the subject property is hereby granted, based upon the findings stated in attached Exhibit 'A' and the information presented at the public hearing on June 12, 2013, and adopted in this resolution at their June 12, 2013, meeting. In addition, a variance to allow the sign to be located a minimum of twenty two feet (22') from the east property line and a minimum of eight feet (8') from the right-of-way line of Interstate 235 is approved due to potential conflicts with a sewer and sewer easement as noted in the June 12, 2013, staff report. Said approval shall be subject to compliance with all of the conditions in the staff report dated June 12, 2013, and attached as Exhibit 'B', including conditions added at the hearing. Violations of any such conditions shall be ground for revocation of the permit, as well as any other remedy which is available to the City.

PASSED AND ADOPTED on June 12, 2013.

Jennifer Drake, Chairperson
Board of Adjustment

ATTEST:

Recording Secretary

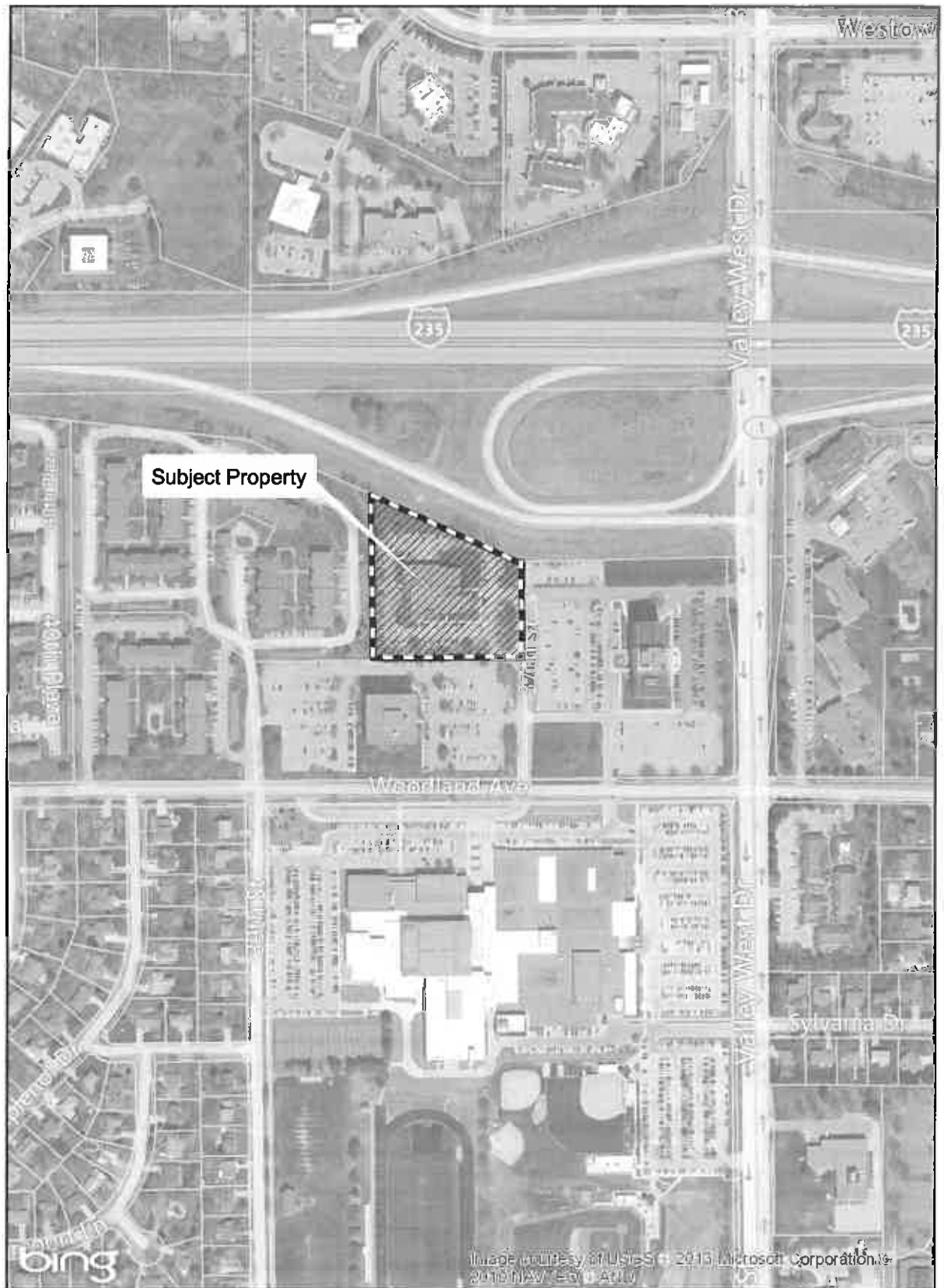
I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on June 12, 2013, by the following vote:

AYES:
NAYS:
ABSTAIN:
ABSENT:

ATTEST:

Recording Secretary

Location Map
1300 37th Street



Medical Arts Building

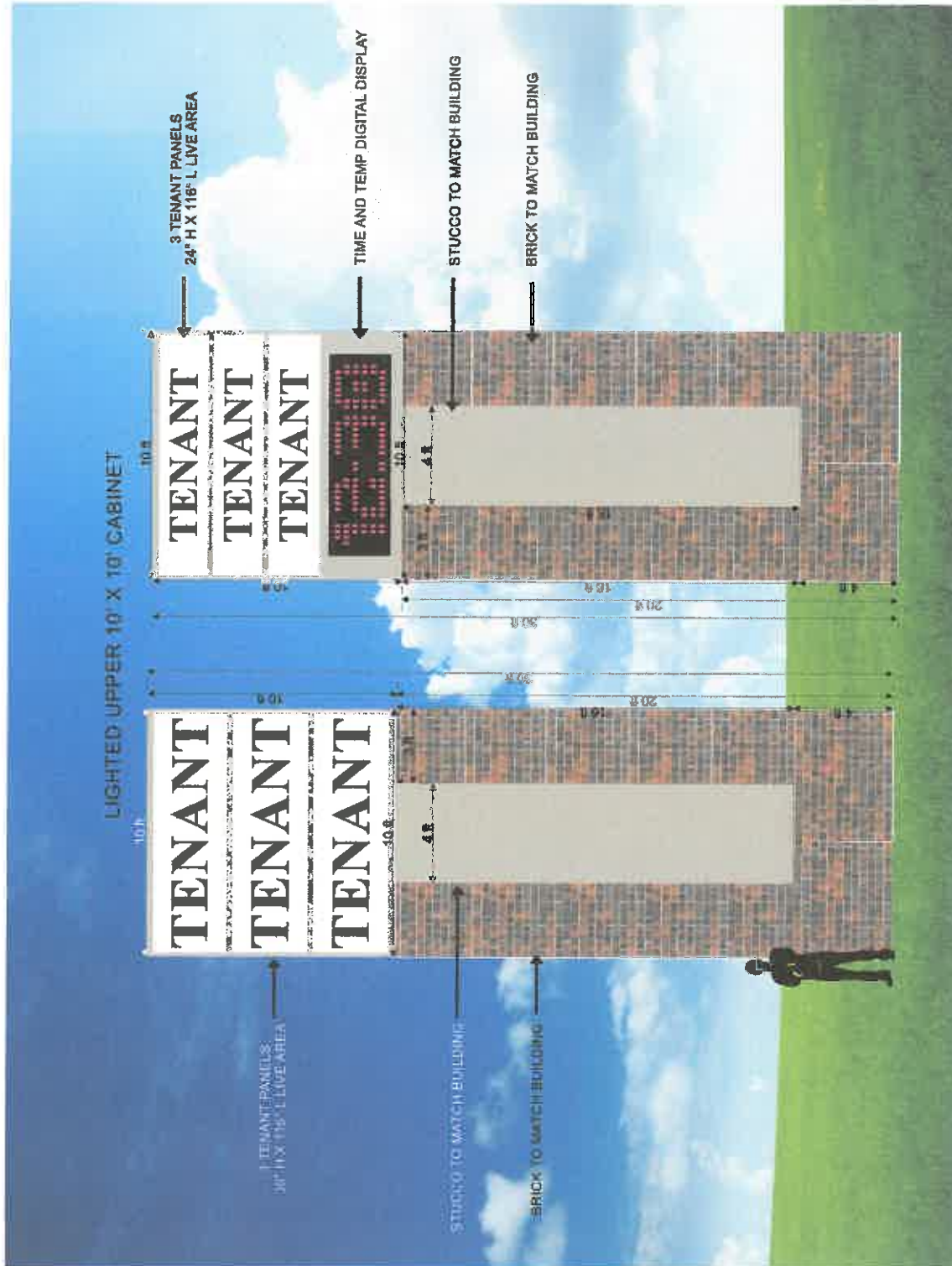


Job No.:	Date:	4/28/2013
Order Date:	Salesperson:	John McCall
Comments:		



Newton, Iowa

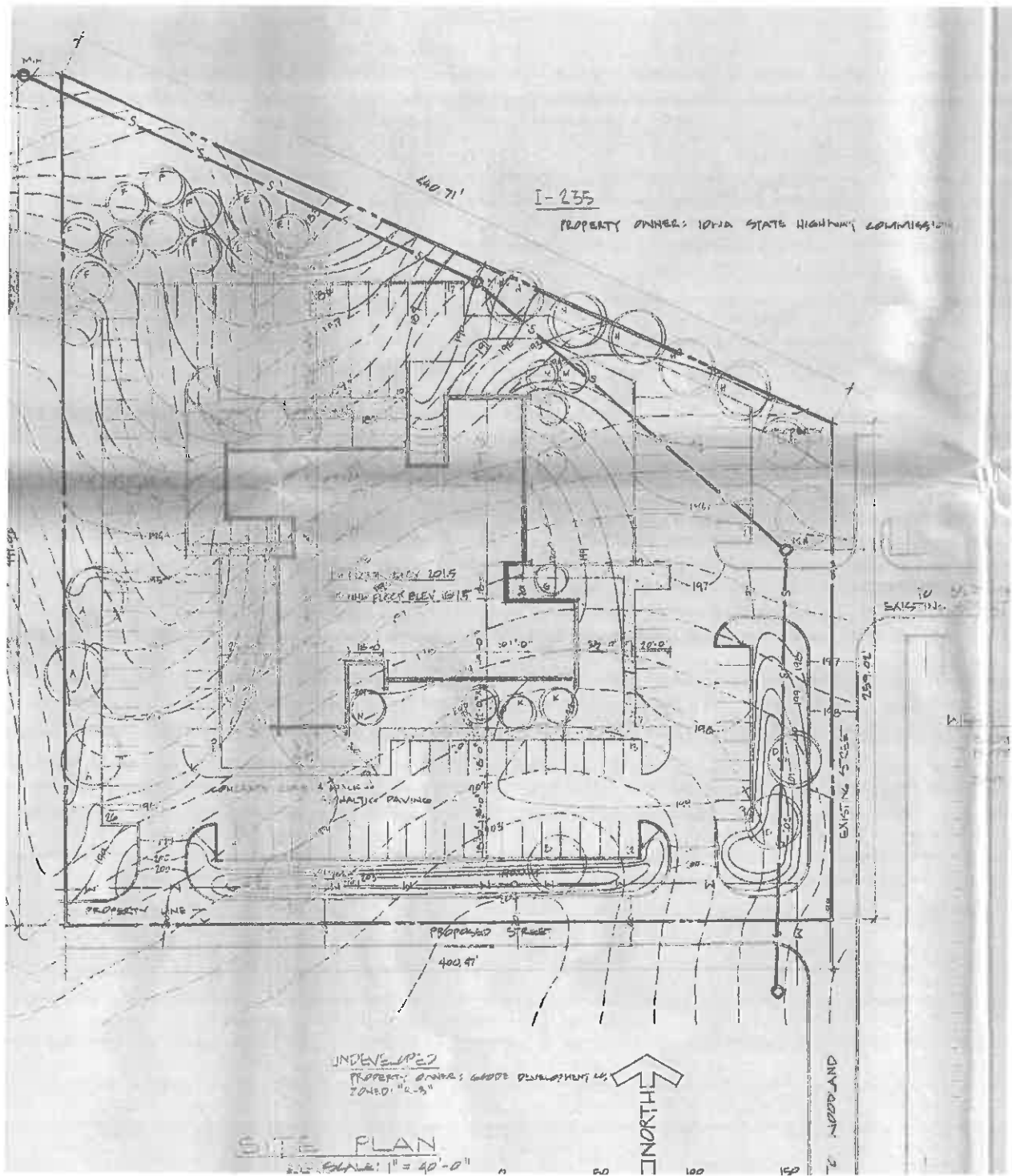
Customer:	Steve
Company:	Professional Arts Building
Address:	1300 37th STE 6
City:	DSM
State/ZIP:	IA
Phone:	515-222-1110
Fax:	



Customer:	Steve
Company:	Professional Arts Building
Address:	1300 37th STE 6
City:	DSM
State/Zip:	IA
Phone:	515-222-1110
Fax:	

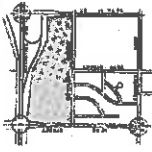


Job No.:	Date:	4/26/2013
Order Date:	Salesperson:	John McCall
Comments:		



MAPLENOL HEIGHTS

ATTACHMENT F



VICINITY MAP

LEGEND

2 LOT DESIGNATION
SUBDIVISION BOUNDARY
EASEMENT
LOT LINE
SET MONUMENT
FOUND MONUMENT
PERMANENT CONTROL
MONUMENT

**THE COURT DECIDED TO TAKE
AND LOT 6 TO BE DECIDED TO TAKE**

- 1 barely sorting than the designated order of classes for the administrative boundary and the individual into one with the national telephone of 1:16,000 and 1:5,000 respectively.

I hereby certify that this plan and survey was made by me or under my direct supervision and that I am a duly registered Professional Engineer and that Snyder was under the direction of the State of Iowa.

Signed _____
Date _____

W. L. Jones, Jr., Sec. Treas.

SCALE	AS SHOWN		RE
DRAWN	DATE		NO. 1
CHECKED	APPROVED		2
DATE	DATE		3
A.E.			4

VEENSTRA & KIM, INC.
ENGINEERS & PLANNERS
1000 W. 10th St., Suite 100
Minneapolis, MN 55402
612-338-1111

FINAL PLAT
MAPLENOL HEIGHTS:

20 1 22

LEGAL DESCRIPTION

A tract of land containing 48.27 acres, more or less, located in the southeast quarter of Section 5, Township 28 North, Range 25 West of the 5th Principal Meridian in the City of West Des Moines, Polk County, Iowa, more particularly described as follows:

Commencing as a point of reference at the last quarter corner of said Section 5:

[illegible]

FRONTIER DRIVE-IN (2) (A/C)

PRIVATE UTILITY EASEMENTS

BOOK "Y" PAGE 278

[illegible]

235

PROPERTY OWNER: IOWA STATE HIGHWAY COMMISSION

